

CCRB INVESTIGATIVE RECOMMENDATION

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|---|-------------------------------------|---------------------------|--|------------------------------------|---------------------------------|
| Investigator: Samuel Ross | Team: Squad #1 | CCRB Case #: 201604752 | <input checked="" type="checkbox"/> Force | <input type="checkbox"/> Discourt. | <input type="checkbox"/> U.S. |
| | | | <input checked="" type="checkbox"/> Abuse | <input type="checkbox"/> O.L. | <input type="checkbox"/> Injury |
| Incident Date(s) Thursday, 05/26/2016 7:49 PM | Location of Incident: § 87(2)(b) | Precinct: 110 | 18 Mo. SOL 11/26/2017 | EO SOL 11/26/2017 | |
| Date/Time CV Reported Fri, 05/27/2016 12:47 PM | CV Reported At: IAB | How CV Reported: Phone | Date/Time Received at CCRB Thu, 06/02/2016 10:58 AM | | |

| Complainant/Victim | Type | Home Address |
|--------------------|------|--------------|
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| | | |

| Witness(es) | Home Address |
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| Subject Officer(s) | Shield | TaxID | Command |
|-------------------------|--------|--------|---------|
| 1. SGT Minh Tran | 00750 | 929274 | 110 PCT |
| 2. POM Michael Carrieri | 31971 | 930412 | 110 PCT |
| 3. An officer | | | |

| Witness Officer(s) | Shield No | Tax No | Cmd Name |
|----------------------|-----------|--------|----------|
| 1. POM Anthony Jones | 17923 | 944684 | 110 PCT |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|---|-----------------------------|
| A.SGT Minh Tran | Abuse: In front of § 87(2)(b) in Queens, Sergeant Minh Tran stopped § 87(2)(b) § 87(2)(b) | |
| B.POM Michael Carrieri | Abuse: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri stopped § 87(2)(b) § 87(2)(b) | |
| C.POM Michael Carrieri | Abuse: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri questioned § 87(2)(b) § 87(2)(b) | |
| D.POM Michael Carrieri | Abuse: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri frisked § 87(2)(b) § 87(2)(b) | |
| E.POM Michael Carrieri | Abuse: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri searched § 87(2)(b) § 87(2)(b) | |
| F.POM Michael Carrieri | Abuse: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri strip-searched § 87(2)(b) § 87(2)(b) | |
| G. An officer | Abuse: In front of § 87(2)(b) in Queens, an officer threatened to arrest § 87(2)(b) § 87(2)(b) | |

| Officer(s) | Allegation | Investigator Recommendation |
|------------------------|---|-----------------------------|
| H.POM Michael Carrieri | Abuse: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri recorded video of § 87(2)(b) on his personal cell phone. | |
| I.SGT Minh Tran | Force: At § 87(2)(b) in Queens, Sergeant Minh Tran used physical force against § 87(2)(b) § 87(2)(b) | |
| § 87(4-b), § 87(2)(g) | | |

Case Summary

§ 87(2)(b) § 87(2)(b) filed this complaint with IAB via telephone on May 27, 2016, generating original log #16-18956. The complaint was then forwarded to the CCRB, where it was received on June 2, 2016.

On May 26, 2016, at approximately 7:49 PM, Sgt. Minh Tran and PO Michael Carrieri of the 110th Precinct Anti-Crime team stopped § 87(2)(b) § 87(2)(b) in front of § 87(2)(b) in Queens (**Allegations A and B**). Also with Sgt. Tran and PO Carrieri was PO Anthony Jones of the 110th Precinct Anti-Crime team. At the time of the encounter, § 87(2)(b) was with § 87(2)(b) § 87(2)(b) and two other, unidentified individuals, one of whom promptly departed from the scene. PO Carrieri allegedly asked § 87(2)(b) § 87(2)(b) if he had a weapon on his person (**Allegation C**) and then frisked and searched § 87(2)(b) § 87(2)(b) (**Allegations D and E**). PO Carrieri then allegedly pulled § 87(2)(b) § 87(2)(b)s pants down to his knees (**Allegation F**). PO Carrieri did not recover any weapon or other contraband from § 87(2)(b) § 87(2)(b)s person. § 87(2)(b) § 87(2)(b) who was standing nearby, protested the officers' conduct, and an unidentified officer allegedly said, "Shut up before I lock you up" (**Allegation G**). The officers departed without issuing any summons or making any arrest.

Approximately forty-five minutes later, the officers went to the front of § 87(2)(b) § 87(2)(b) in Queens. They sat inside of their RMP observing the location, outside of which several individuals were gathered. From inside of the RMP, PO Carrieri allegedly recorded a video of § 87(2)(b) § 87(2)(b) (**Allegation H**). § 87(2)(b) § 87(2)(b) then arrived at this secondary location. § 87(2)(b) § 87(2)(b) called 911 and reported the presence of suspicious armed men in a vehicle outside of § 87(2)(b) § 87(2)(b)th Street. § 87(2)(b) § 87(2)(b) entered a deli-grocery located at § 87(2)(b) § 87(2)(b)th Street in Queens. When the officers received the job generated by § 87(2)(b) § 87(2)(b)s 911 call, via radio, they resolved to arrest § 87(2)(b) § 87(2)(b) for Falsely Reporting an Incident. Sgt. Tran and PO Carrieri entered the deli-grocery and Sgt. Tran took hold of § 87(2)(b) § 87(2)(b)s arm, allegedly gripping him so tightly that he caused significant bruising (**Allegation I**). The officers arrested § 87(2)(b) § 87(2)(b) and transported him to the 110th Precinct for arrest processing.

The investigation obtained surveillance video footage of the first portion of the incident, occurring in front of § 87(2)(b) § 87(2)(b)th Street, from § 87(2)(b) § 87(2)(b), located at § 87(2)(b) § 87(2)(b)th Street in Queens. The investigation also obtained cell phone video of the second portion of the incident, occurring in front of § 87(2)(b) § 87(2)(b)th Street.

§ 87(2)(b)

Mediation, Civil and Criminal Histories

- This case was deemed unsuitable for mediation because § 87(2)(b) § 87(2)(b) was arrested.
- On August 9, 2016, the Office of the Comptroller informed the undersigned that no notice of claim has been filed in regards to this incident.
- § 87(2)(b) § 87(2)(b)

§ 87(2)(b)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- Sgt. Tran, who has been a member of the NYPD for fifteen years, has been a subject in two previous CCRB cases. As noted above, he is a subject in CCRB Case #201605419, which also involves § 87(2)(b) and is open. No allegations made against Sgt. Tran have been substantiated and his CCRB history does not reveal any relevant fact pattern.
- PO Carrieri, who has been a member of the NYPD for thirteen years, has been a subject in four previous CCRB cases. In case #201302149 it was alleged that PO Carrieri frisked an individual. That allegation was truncated. In CCRB case #201501713 it was alleged that PO Carrieri searched a vehicle, and that allegation was substantiated. The CCRB recommended Command Discipline - A, and the NYPD upheld the CCRB's recommendation. As noted above, PO Carrieri is a subject in CCRB Case #201605136, which also involves § 87(2)(b) and is open. PO Carrieri's CCRB history does not otherwise reveal any relevant pattern.

Potential Issues

- The investigation was unable to obtain a verified statement from § 87(2)(b) the original complainant in this case. The undersigned reached § 87(2)(b) via telephone on June 3, 2016. § 87(2)(b) confirmed his contact information and scheduled an interview appointment for June 9, 2016. An automated SMS interview appointment reminder was sent to § 87(2)(b) on June 8, 2016. However, § 87(2)(b) did not appear at the CCRB for his scheduled June 9, 2016 interview appointment and he did not call to cancel or reschedule. Letters were mailed to § 87(2)(b) on June 9, 14, and 20, 2016. In the last of these letters, the undersigned offered to meet § 87(2)(b) in the field. The undersigned also left voicemail messages for § 87(2)(b) on June 9, 13, 15, and 20, 2016. In the latter two of these voicemail messages, the undersigned offered to meet § 87(2)(b) in the field. On June 21, 2016, while the undersigned was in Corona, Queens performing field work for this case, the undersigned left § 87(2)(b) a voicemail message informing him that the undersigned would be in his neighborhood for several hours. However, § 87(2)(b) did not return the call. As of the writing of this report, § 87(2)(b) has not contacted the undersigned investigator and the letters have not been returned to the CCRB. Therefore, the investigation did not obtain a verified statement from § 87(2)(b).

- § 87(2)(b) § 87(2)(b) the owner of § 87(2)(b) a business located at § 87(2)(b)th Street in Queens, witnessed the incident but refused to provide a verified statement, or any statement on record, to the investigation. § 87(2)(b) provided a verbal statement to Inv. Gutierrez, Inv. Villa, and Inv. O'Connor of the CCRB's Field Team on June 7, 2016. On June 20, 2016, the undersigned investigator visited § 87(2)(b) and met with § 87(2)(b) who confirmed the details of the statement previously provided to the Field Team but again refused to provide any statement on record.
- § 87(2)(b) also stated that his brother witnessed the incident, but he was unwilling to provide contact information for his brother. Lexis Nexis and CLEAR searches performed for § 87(2)(b) did not return any information regarding a brother, and therefore the investigation was unable to identify this potential witness.
- The investigation was unable to obtain a verified statement from § 87(2)(b) § 87(2)(b) provided a phone statement on June 28, 2016 and scheduled a July 6, 2016 interview appointment. However, § 87(2)(b) did not appear at the CCRB for his scheduled July 6, 2016 interview appointment and did not call to cancel or reschedule. A missed appointment letter was mailed on July 6, 2016 and subsequent letters were mailed on July 14 and 21, 2016. Calls were placed to § 87(2)(b) on July 7, 11, 13, and 15, 2016, but the number was no longer in service. As of the writing of this report § 87(2)(b) has not contacted the undersigned investigator and the letters have not been returned to the CCRB.
- The investigation was unable to obtain any statement from § 87(2)(b) § 87(2)(b) stated that he was only tangentially familiar with the other individuals who were present with him during the first portion of the incident, occurring outside of § 87(2)(b)th Street, and could not provide names or contact information for them. The investigation was able to identify one of these witnesses as § 87(2)(b) § 87(2)(b) only in light of new information provided by Sgt. Tran and PO Carrieri during their statements to the CCRB. After the investigation identified § 87(2)(b) his mailing address was obtained from several recent arrest reports, all of which list the same address. Cole's Directory and a DMV search confirmed the mailing address. CLEAR and Lexis Nexis returned negative results for § 87(2)(b) but the Lexis Nexis search returned numerous possible phone numbers for possible relatives who live at § 87(2)(b)'s address. On August 18, 2016 the undersigned attempted, unsuccessfully, to contact § 87(2)(b) or any of his relatives at those phone numbers. English- and Spanish-language letters were mailed the same day. Further unsuccessful phone calls were placed on August 22, 2016. That day, the undersigned reached a § 87(2)(b) Cesar Chumbay by telephone. § 87(2)(b) Chumbay stated that he resides at the same mailing address previously located for § 87(2)(b) and that he is § 87(2)(b)'s uncle. However, he stated that his family had not seen § 87(2)(b) in one month and that he could not provide any contact information for § 87(2)(b) § 87(2)(b) Chumbay was provided with contact information for the undersigned, and § 87(2)(b) Chumbay stated that he would provide it to § 87(2)(b) if given the opportunity. Additional phone calls were placed on August 24, 2016, but they were also unsuccessful. Second English- and Spanish-language letters were mailed on August 25, 2016. However, as of the writing of this report, § 87(2)(b) has not contacted the undersigned, and the letters have not been returned to the CCRB.
- The investigation was unable to obtain a verified statement from "§ 87(2)(b) the deli-grocery employee who was working at the time of the incident. § 87(2)(b) provided a brief statement to the Field Team on June 10, 2016. However, § 87(2)(b) stated he did not wish to be involved in

the investigation and refused to provide a contact telephone number. On June 20, 2016 the undersigned investigator returned to the deli-grocery, but § 87(2)(b) was not present. The undersigned left a business card for § 87(2)(b) but he has not contacted the undersigned.

- On June 10, 2016, the field team learned that the surveillance cameras at the deli-grocery in question, located at § 87(2)(b)th Street in Queens, were not recording at the time of the incident. On June 20, 2016 the undersigned visited this business and confirmed that the surveillance cameras show only a live feed and do not record video.

Findings and Recommendations

Allegations not pleaded

- **Abuse of Authority:** A Stop allegation is not pleaded against PO Jones. PO Jones (Board Review 01), who was the operator of the RMP prior to the stop occurring in front of § 87(2)(b)th Street, stated that he did not make any observation prior to the stop and parked the RMP on the basis of observations made by PO Carrieri. Sgt. Tran (Board Review 02 and 03) and PO Carrieri (Board Review 04) took responsibility for stopping § 87(2)(b). Moreover, as demonstrated by Video 1, during the encounter PO Jones stood aside and did not interact with § 87(2)(b) until well after the alleged frisk and search took place. Therefore no allegation is pleaded against PO Jones.
- **Abuse of Authority:** Stop and Frisk allegations are not pleaded on behalf of § 87(2)(b). The above surveillance video from Uribe Family Wine and Liquor (Video 1, below; Board Review 05) revealed that PO Carrieri frisked § 87(2)(b). However, neither § 87(2)(b) who initially filed the complaint, nor § 87(2)(b) the victim who ultimately provided a verified statement, made any such allegation on § 87(2)(b)'s behalf. As noted above in *Potential Issues*, the investigation was unable to obtain a statement from § 87(2)(b). Because a determination of facts cannot be made on the basis of the video alone, and because no verified statement was provided in regards, no allegations are pleaded.
- **Force:** a Force allegation is not pleaded. § 87(2)(b) stated that when the officers arrested § 87(2)(b) an officer took § 87(2)(b) to the ground and placed his knee on § 87(2)(b)'s back. § 87(2)(b) did not make any such force allegation. Therefore no allegation is pleaded in regards.

Pleading

- § 87(2)(b) alleged that Sgt. Tran gripped his right arm tightly enough to cause bruising. However, he provided photos of bruising to his left arm. It is undisputed that both PO Carrieri and Sgt. Tran took hold of § 87(2)(b) but while Sgt. Tran did not recall which officer was on which side of § 87(2)(b) PO Carrieri stated that he took hold of § 87(2)(b)'s right arm and Sgt. Tran took hold of § 87(2)(b)'s left arm. While it appears that § 87(2)(b) misremembered which arm had been injured, he recalled that the injury was caused by Sgt. Tran, and PO Carrieri's testimony confirmed that Sgt. Tran was in a position to have caused the alleged injury. Therefore, Allegation H is pleaded against Sgt. Tran.

Allegation A—Abuse of Authority: In front of § 87(2)(b) in Queens, Sergeant Minh Tran stopped § 87(2)(b) § 87(2)(b)
Allegation B—Abuse of Authority: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri stopped § 87(2)(b) § 87(2)(b)

It is undisputed that Sgt. Tran and PO Carrieri stopped § 87(2)(b) § 87(2)(b)

§ 87(2)(b) § 87(2)(b) (Board Review 06) stated that he drove from his grandmother's house, located at § 87(2)(b) § 87(2)(b) Street, in Queens, to § 87(2)(b) § 87(2)(b) located at § 87(2)(b) § 87(2)(b) Street, in Queens, in his 2000 silver Honda Civic. He was wearing a burgundy Cleveland Cavaliers basketball jersey and camouflage cargo pants with pockets on the sides of the legs, near the knees. He carried his wallet in his right back pants pocket and his cell phone in his front right pants pocket. He did not have anything else in his pockets. Neither his phone nor his wallet created a visible bulge. § 87(2)(b) § 87(2)(b) parked in front of § 87(2)(b) § 87(2)(b) and exited. In his vehicle was his friend § 87(2)(b) § 87(2)(b) whose last name he did not know. § 87(2)(b) § 87(2)(b) remained inside of § 87(2)(b) § 87(2)(b)s vehicle. Outside of § 87(2)(b) § 87(2)(b) § 87(2)(b) encountered three acquaintances, whose names he did not know and for whom he could not provide contact information. § 87(2)(b) § 87(2)(b) § 87(2)(b) slapped hands with the three individuals and spoke with them for three to four minutes. He did not see any members of the NYPD during this time. He did not exchange any items with any of the individuals with whom he spoke.

An unmarked RMP then pulled up to the curb in front of § 87(2)(b) § 87(2)(b) PO Jones, PO Carrieri, and Sgt. Tran exited the RMP. § 87(2)(b) § 87(2)(b) had previously interacted with each officer numerous times. They had previously stopped him and searched him multiple times, and Sgt. Tran had arrested § 87(2)(b) § 87(2)(b) twice before. PO Carrieri and Sgt. Tran approached § 87(2)(b) § 87(2)(b) immediately, while PO Jones approached § 87(2)(b) § 87(2)(b)s three acquaintances and asked them to step aside. The three acquaintances walked away along § 87(2)(b) § 87(2)(b), headed northbound. PO Carrieri, meanwhile, placed a hand on § 87(2)(b) § 87(2)(b) and physically guided him toward the glass window at the front of § 87(2)(b) § 87(2)(b)

PO Jones, the RMP's operator, stated that PO Carrieri sat next to him in the front passenger's seat and Sgt. Tran sat in the rear passenger's side seat. As the RMP headed eastbound on § 87(2)(b) § 87(2)(b), approaching § 87(2)(b) § 87(2)(b), PO Jones observed three individuals standing in front of § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) and two other, unidentified individuals. PO Jones knew § 87(2)(b) § 87(2)(b) and one of the two other individuals to be members of Always Banging Kings and La Familia, associated gangs which were active in the 110th Precinct. PO Jones had arrested § 87(2)(b) § 87(2)(b) twice before and knew § 87(2)(b) § 87(2)(b) to be involved in criminal activities including the sale and possession of narcotics. § 87(2)(b) § 87(2)(b) was wearing loose-fitting clothing but PO Jones did not recall specifically what he wore. When the RMP was approximately ten feet from the corner of § 87(2)(b) § 87(2)(b) PO Carrieri announced that he saw a bulge on § 87(2)(b) § 87(2)(b)s person. PO Jones did not recall if PO Carrieri provided any additional detail about the bulge he observed or about any other observation he made. PO Jones did not observe a bulge on § 87(2)(b) § 87(2)(b)s person himself.

PO Jones pulled the RMP to the curb in front of § 87(2)(b) § 87(2)(b) so that the officers could investigate in regards to PO Carrieri's observation. PO Jones did not know if § 87(2)(b) § 87(2)(b) or his associates were guilty of any summonsable or arrestable offense at that time. He believed he and his fellow officers were going to approach the individuals because they were known gang members, because they were lingering, and because PO Carrieri had observed a bulge on § 87(2)(b) § 87(2)(b)s person.

PO Jones pulled the RMP over at the curb, directly adjacent to § 87(2)(b) and his two associates. The officers exited the RMP and approached the group. § 87(2)(b) held his hands near his waistband. PO Jones did not know specifically what § 87(2)(b) was doing with his hands. Upon exiting the RMP and walking around to the passenger's side, PO Jones observed a bulge on one of § 87(2)(b)'s front pants pockets. PO Jones could not determine the shape of the bulge. As officers approached the group, § 87(2)(b) quickly placed his hands in his front pants pockets. PO Jones was "on high alert" because § 87(2)(b) and one of the other individuals were known gang members. PO Carrieri and Sgt. Tran approached § 87(2)(b) and PO Jones approached the other two individuals.

Sgt. Tran stated that while the officers were conducting routine patrol in their RMP, he sat in the rear on the passenger's side. Just prior to the encounter in question, the RMP headed eastbound on § 87(2)(b). When it reached the intersection of § 87(2)(b) and passed by a 7-11 Store located at that intersection, Sgt. Tran observed § 87(2)(b) and two of his associates standing on the sidewalk in front of § 87(2)(b). The RMP was approximately thirty feet away from § 87(2)(b) when Sgt. Tran first observed him. Sgt. Tran knew § 87(2)(b) to be a member of Always Banging Kings. § 87(2)(b) was wearing loose-fitting blue jeans and a loose-fitting t-shirt, but Sgt. Tran could not remember the color of his shirt. The other two individuals, whom Sgt. Tran could not name, were also known members of Always Banging Kings. § 87(2)(b) and his associates were spread out across the sidewalk and were impeding pedestrian traffic. Pedestrians had to walk around § 87(2)(b) and his two associates in order to pass by on the sidewalk. Some individuals walked into the street into oncoming traffic in order to go around them. Additionally, from inside of the RMP, Sgt. Tran observed bulges on § 87(2)(b)'s left- and right-side front pants pockets. Sgt. Tran could not determine the shapes of the bulges at this time and did not know what sort of object created the bulges but he believed that it could be a weapon because § 87(2)(b) was a known gang member and had been arrested in the past for weapon-related crimes. Further, Sgt. Tran believed that § 87(2)(b) and his associates were guilty of Disorderly Conduct for impeding pedestrian traffic. They were not guilty of any other summonsable or arrestable offense at that time. Sgt. Tran made all of these observations as soon as he saw § 87(2)(b) from near the 7-11, as mentioned above. Sgt. Tran believed that PO Carrieri and PO Jones also observed § 87(2)(b) and his associates at that time.

Because § 87(2)(b) and his associates were guilty of Disorderly Conduct, because of the bulges on § 87(2)(b)'s person, and because § 87(2)(b) was associated with a gang, Sgt. Tran resolved to stop the individuals in order to conduct further investigation, and in order to make sure that § 87(2)(b) did not have any weapons on his person.

PO Carrieri drove the RMP up to the curb in front of § 87(2)(b) and parked. The RMP was approximately ten to fifteen feet away from § 87(2)(b). When the RMP arrived there, Sgt. Tran observed the bulges on § 87(2)(b)'s pants more clearly, but he could not make out the specific shapes of the bulges. The officers then all exited the vehicle. PO Carrieri approached § 87(2)(b) directly and PO Jones approached the other two individuals. Sgt. Tran took a rear approach, behind PO Carrieri. Upon approaching § 87(2)(b) the bulges in the area of his front pants pockets were not more clearly shaped. The shapes of the bulges were still indistinct. As PO Carrieri and Sgt. Tran approached § 87(2)(b) § 87(2)(b) held his pants by the front of his waistband. Sgt. Tran did not remember if § 87(2)(b) ever appeared to insert any object into a pocket upon the officers' approach.

PO Carrieri stated that prior to the encounter in question, he rode in the RMP's front passenger's seat. The RMP headed southeast on § 87(2)(b) approaching the intersection where § 87(2)(b) converge. PO Carrieri observed § 87(2)(b) standing on the sidewalk in front of § 87(2)(b). PO Carrieri knew § 87(2)(b) to be a member of Always Banging Kings, and believed § 87(2)(b) to have been involved in burglaries, robberies, and narcotics- and weapon-related crimes. The RMP was approximately twenty feet away from § 87(2)(b) when PO Carrieri first observed § 87(2)(b). § 87(2)(b) was wearing loose-fitting blue jeans and a top. PO Carrieri did not remember if § 87(2)(b) was wearing a close-fitting or a loose-fitting top. § 87(2)(b) was standing with a group of roughly four other individuals. Among the other individuals was § 87(2)(b) also a member of Always Banging Kings. Nothing in particular about the other individuals' behaviors or appearances raised PO Carrieri's suspicion, aside from their general association with gang members.

As soon as PO Carrieri saw § 87(2)(b) § 87(2)(b) looked in the direction of the RMP. § 87(2)(b) held an unknown object in hand, and abruptly placed that hand into one of his front pants pockets. PO Carrieri could not identify what sort of object § 87(2)(b) was holding. PO Carrieri did not see its size, shape, or color. PO Carrieri did not recall which hand § 87(2)(b) held this unknown object in or which pants pocket he placed his hand in. PO Carrieri did not remember if at that point, from inside RMP, he saw any bulge on § 87(2)(b)'s person. § 87(2)(b)'s known gang status, combined with his placing hand into pocket as soon as he appeared to notice the RMP, led PO Carrieri to suspect that § 87(2)(b) might have a weapon on his person. PO Carrieri did not specifically suspect or believe that § 87(2)(b) was guilty of any other summonsable or arrestable offense.

PO Jones parked the RMP at the curb directly in front of § 87(2)(b) where § 87(2)(b) and his associates were standing. The officers exited the RMP and PO Carrieri immediately approached § 87(2)(b).

PO Carrieri documented the observation precipitating the stop in his memo book (Board Review 07), as follows: "20:00 male stopped § 87(2)(b) § 87(2)(b) suspected of CPW [Criminal Possession of a Weapon]. Suspect is a known gang member. Suspect upon noticing officers did abruptly shove unk [unknown] object in his front pocket." Further, PO Carrieri memorialized the stop in a handwritten 250 report (Board Review 08), on which he notes that § 87(2)(b) was suspected of Criminal Possession of a Weapon and that § 87(2)(b) was stopped because he exhibited furtive movements. PO Carrieri clarified during his CCRB interview that by this he referred to § 87(2)(b)'s placing his hand in his pocket upon seeing the officers' approach.

According to *People v. De Bour, 40 N.Y.2d 201 (1976)* (Board Review 09) reasonable suspicion of criminality is required for a forcible stop.

As noted above, the following surveillance video (Board Review 05), obtained from § 87(2)(b) which is located roughly 150 feet from § 87(2)(b) captured § 87(2)(b)'s arrival in front of § 87(2)(b) at the 19:47:56 mark, his activities prior to the officers' arrival on scene at the 19:49:42 mark, and, ultimately, the ensuing stop.



2016-08-30_9-49-43.mp4

Video 1 (4 minutes 17 seconds)

Note: This embedded portion of video is of lower resolution than the original video file, which is linked to IA #114 of the digital case file and is playable directly from CTS (Board Review 05). The relevant portion of video begins at the 19:47:27 mark and ends at the 19:52:07 mark.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

Allegation C—Abuse of Authority: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri questioned § 87(2)(b) § 87(2)(b)

§ 87(2)(b) § 87(2)(b) stated that when PO Carrieri and Sgt. Tran approached him, PO Carrieri immediately asked § 87(2)(b) § 87(2)(b) if he had a gun or knife on his person. § 87(2)(b) § 87(2)(b) responded that he did not. PO Carrieri then asked § 87(2)(b) § 87(2)(b) if he had any narcotics on his person. Again, § 87(2)(b) § 87(2)(b) responded that he did not.

As noted above in the analysis of Allegations A and B, PO Carrieri stated that because of § 87(2)(b)'s known gang status, combined with § 87(2)(b)'s placing a hand into a pocket as soon as he appeared to notice the RMP, PO Carrieri suspected that § 87(2)(b) might have a weapon on his person. Further, PO Carrieri stated that when he approached § 87(2)(b) held either one or both of his hands in his pocket or pockets. PO Carrieri immediately asked § 87(2)(b) to remove his hands from his pockets and asked what § 87(2)(b) had placed in his pocket. However, PO Carrieri did not remember specifically if he asked § 87(2)(b) if he was in possession of any weapons or narcotics.

Sgt. Tran did not recall what verbal exchange took place when he and PO Carrieri approached § 87(2)(b). Sgt. Tran did not remember if PO Carrieri asked § 87(2)(b) if he had any weapons or narcotics on his person, but he believed that PO Carrieri likely did so, as this was standard procedure. Similarly, PO Jones did not recall specifically if PO Carrieri asked if § 87(2)(b) had a weapon or narcotics on his person, but PO Carrieri asked § 87(2)(b) in effect, what was inside of § 87(2)(b)'s pockets. PO Carrieri also asked § 87(2)(b) to show PO Carrieri his hands.

According to *People v. Hollman*, 79N.Y.2d 181 (1992) an officer cannot ask accusatory questions without founded suspicion of criminality (Board Review 18).

§ 87(2)(b), § 87(2)(g)
[REDACTED]

[REDACTED]

Allegation D—Abuse of Authority: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri frisked § 87(2)(b).

It is undisputed that PO Carrieri frisked § 87(2)(b).

According to PO Carrieri, after he asked § 87(2)(b) what was in his pockets and requested that § 87(2)(b) remove his hands from his pockets, § 87(2)(b) failed to comply and did not remove his hands from his pockets. § 87(2)(b) said, “Go fuck yourself” to PO Carrieri. PO Carrieri took hold of § 87(2)(b)'s forearms and pulled § 87(2)(b)'s hands out of his pants pockets. PO Carrieri was not certain if he removed one or both of § 87(2)(b)'s hands from his pocket or pockets, but he was certain that he removed at least the hand which § 87(2)(b) had abruptly inserted into his pocket when the officers approached, earlier. When PO Carrieri removed § 87(2)(b)'s hand from his pocket, there was no object in § 87(2)(b)'s hand. PO Carrieri did not recall if there was any visible bulge on either of § 87(2)(b)'s pants pockets. PO Carrieri patted down § 87(2)(b)'s front pants pockets.

As noted above, Sgt. Tran stated that from inside of the RMP he observed bulges on § 87(2)(b)'s front pants pockets. When the RMP arrived at the curb in front of § 87(2)(b) he observed the bulges on § 87(2)(b)'s pants more clearly, but he could not make out the specific shapes of the bulges. According to Sgt. Tran, when he and PO Carrieri approached § 87(2)(b) the bulges in the area of his front pants pockets were not more clearly shaped; they were of indistinct shape. Sgt. Tran did not remember if § 87(2)(b) ever shoved any object into his pocket upon the officers' approach. As PO Carrieri neared § 87(2)(b) § 87(2)(b) began to pull away and flail his arms. Sgt. Tran took hold of § 87(2)(b)'s arms to hold § 87(2)(b) still. As discussed in further detail below, in

the analysis of Allegation G, § 87(2)(b)'s pants fell down. PO Carrieri then patted down the bulges on the front of § 87(2)(b)'s pants, which were at § 87(2)(b)'s ankles.

Also as noted above, in the analysis of Allegation A and B, PO Jones stated that from inside of the RMP he did not observe any bulge on § 87(2)(b)'s person. However, when the officers exited the RMP and approached the group, PO Jones observed a bulge in one of § 87(2)(b)'s front pants pockets. PO Jones could not determine the shape of the bulge. As officers approached the group, § 87(2)(b) placed his hands in his pockets. PO Carrieri and Sgt. Tran approached § 87(2)(b) while PO Jones approached § 87(2)(b)'s associates. When PO Carrieri reached § 87(2)(b) § 87(2)(b) pulled away, and PO Carrieri took hold of § 87(2)(b)'s arms. PO Jones believed that PO Carrieri did so in order to control § 87(2)(b)'s arms for fear that § 87(2)(b) might have a weapon in one of his pockets. However, PO Jones was unsure whether or not PO Carrieri ever frisked § 87(2)(b).

PO Carrieri noted in his memo book (Board Review 07) that he frisked § 87(2)(b) and noted on the above-referenced 250 report (Board Review 08) that he frisked § 87(2)(b) because § 87(2)(b) exhibited furtive movements and because § 87(2)(b) was, according to PO Carrieri, a known gang member.

According to *People v. De Bour*, 40 N.Y.2d 201 (1976) (Board Review 09) in order to frisk an individual an officer must have reasonable suspicion that he or she is in danger by virtue of that individual being armed.

§ 87(2)(b), § 87(2)(g)
[REDACTED]

[REDACTED]

Allegation E—Abuse of Authority: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri searched § 87(2)(b) § 87(2)(b)

It is undisputed that PO Carrieri searched § 87(2)(b) by reaching into his front pants pockets.

PO Carrieri stated that when he frisked § 87(2)(b) he felt a hard object, in one of § 87(2)(b)'s front pants pockets. However, PO Carrieri could not determine the specific size, shape, or texture of the object from the frisk he conducted. PO Carrieri reached into § 87(2)(b)'s front pants pocket and removed the hard object, which was revealed to be a cell phone. PO Carrieri did not

remember what style of cell phone it was. He did not recall, for example, whether it was a small flip-style phone or a large smartphone.

§ 87(2)(b), § 87(2)(g)

Sgt. Tran stated that when PO Carrieri frisked the bulges on § 87(2)(b)'s person, it was clear to Sgt. Tran that there were hard objects in § 87(2)(b)'s front pockets. However, Sgt. Tran could not make out the shape of the objects. PO Carrieri reached into § 87(2)(b)'s front pants pockets and removed a wallet and a cell phone. Sgt. Tran did not remember which object was removed from which pocket. Only when the objects were removed from § 87(2)(b)'s pockets did Sgt. Tran learn what they were.

PO Jones, for his part, was unsure whether or not PO Carrieri ever reached into or removed any objects from § 87(2)(b)'s pockets. According to PO Jones, at some point during the interaction, someone removed items from § 87(2)(b)'s pockets but PO Jones did not recall how this took place. PO Jones did not recall what items were removed from § 87(2)(b)'s pockets, but he recalled that § 87(2)(b) did not have a weapon on his person.

According to *People v. De Bour*, 40 N.Y.2d 201 (1976) (Board Review 09), an officer must have probable cause in order to search an individual. Further, according to *People v. Crawford*, 2011 NY Slip Op 7691 (Board Review 19), in which officers observed an individual repeatedly adjust an apparently heavy bulge – created by an object which was located in that individual's pants pocket, and whose approximate shape and size an officer was able to describe, but which was ultimately unidentifiable, even at close range – and in which that individual subsequently fled, the court found that this combination of factors did not provide the officers in question with reasonable suspicion that the individual in question was involved in a crime, to say nothing of probable cause.

§ 87(2)(b), § 87(2)(g)

Allegation F—Abuse of Authority: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri strip-searched § 87(2)(b), § 87(2)(b)

It is undisputed that during the encounter, § 87(2)(b) § 87(2)(b)s pants either fell or were pulled down to below his knees.

§ 87(2)(b) § 87(2)(b) stated that after PO Carrieri searched him, PO Carrieri pulled his pants down intentionally. During his CCRB interview § 87(2)(b) § 87(2)(b) said both that his pants fell down and that PO Carrieri pulled his pants down. When asked to clarify, § 87(2)(b) § 87(2)(b) stated that PO Carrieri pulled his pants down by grabbing the sides of the pants on § 87(2)(b) § 87(2)(b)s thighs, on both legs, and pulling downward in an apparently intentional motion, to § 87(2)(b) § 87(2)(b)s mid-calf. § 87(2)(b) § 87(2)(b) was wearing a belt at the time, but PO Carrieri did not touch § 87(2)(b) § 87(2)(b)s belt buckle. Despite the belt, § 87(2)(b) § 87(2)(b)s pants were somewhat loose on his waist. PO Carrieri then backed away from § 87(2)(b) § 87(2)(b) one or two steps. § 87(2)(b) § 87(2)(b) was wearing underwear, but it was not visible because his basketball jersey hung down below his crotch. PO Carrieri did not make any contact with § 87(2)(b) § 87(2)(b)s body or underwear while his pants were down. § 87(2)(b) § 87(2)(b) pulled his pants up approximately one minute after PO Carrieri backed away from him. § 87(2)(b) § 87(2)(b) never heard any officers discuss pulling his pants down or strip-searching him.

PO Carrieri stated that at some point during his interaction with § 87(2)(b) § 87(2)(b) after PO Carrieri removed § 87(2)(b) § 87(2)(b)s hands from his pockets, § 87(2)(b) § 87(2)(b)s pants fell down. PO Carrieri did not remember if § 87(2)(b) § 87(2)(b)s pants fell down before or after he patted down § 87(2)(b) § 87(2)(b)s pockets, or before or after he reached into § 87(2)(b) § 87(2)(b)s pocket. § 87(2)(b) § 87(2)(b)s pants fell down because § 87(2)(b) § 87(2)(b) was wearing his pants very low and because § 87(2)(b) § 87(2)(b) was not wearing a belt. § 87(2)(b) § 87(2)(b)s pants fell down to his knees. When this happened, § 87(2)(b) § 87(2)(b) said, “Pick up my fucking pants.” PO Carrieri told § 87(2)(b) § 87(2)(b) to pick up his own pants. § 87(2)(b) § 87(2)(b) eventually pulled up his pants but he did not do so immediately. § 87(2)(b) § 87(2)(b) waited for a matter of at least several seconds before pulling his pants up. PO Carrieri did not pull § 87(2)(b) § 87(2)(b)s pants down, accidentally or intentionally. PO Carrieri did not strip-search § 87(2)(b) § 87(2)(b) and did not discuss removing § 87(2)(b) § 87(2)(b)s pants with Sgt. Tran.

According to Sgt. Tran, before the officers approached § 87(2)(b) § 87(2)(b) he held his hands near his waistband. As noted above, when PO Carrieri approached § 87(2)(b) § 87(2)(b) § 87(2)(b) pulled away and began to flail his arms, removed his hands from his waistband. His pants, which were loose on his waist, then fell down to his ankles. § 87(2)(b) § 87(2)(b) then yelled that the officers were violating his rights by stripping him in public. However, PO Carrieri did not pull § 87(2)(b) § 87(2)(b)s pants down; the pants fell down accidentally because they were loose. PO Carrieri did not strip-search § 87(2)(b) § 87(2)(b) and Sgt. Tran never authorized such a strip-search.

PO Jones also stated that when PO Carrieri took hold of § 87(2)(b) § 87(2)(b)s flailing arms, § 87(2)(b) § 87(2)(b)s pants fell down, from his waist to his ankles. According to PO Jones, PO Carrieri did not pull § 87(2)(b) § 87(2)(b)s pants down. PO Jones told § 87(2)(b) § 87(2)(b) to pull up his pants, but § 87(2)(b) § 87(2)(b) did not do so immediately. Rather, he waited before pulling his pants up, but PO Jones did not recall

specifically how long the delay was and could not approximate whether it was a matter of seconds or of minutes. Eventually, § 87(2)(b) pulled his own pants up.

§ 87(2)(b) § 87(2)(b) who originally filed this complaint with IAB, stated in his initial complaint that three plainclothes officers pulled § 87(2)(b) § 87(2)(b)s pants down in public. Further, § 87(2)(b) § 87(2)(b) was not wearing underwear, so he was “exposed.” § 87(2)(b) § 87(2)(b) was upset because at the time of the incident he was with his daughters, who witnessed what took place. § 87(2)(b) § 87(2)(b) approached the officers and told them that he believed this display was inappropriate for public view.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)
[REDACTED]

§ 87(2)(b), § 87(2)(g)
[REDACTED]

Allegation G—Abuse of Authority: In front of § 87(2)(b) in Queens, an officer threatened to arrest § 87(2)(b) § 87(2)(b)

§ 87(2)(b) § 87(2)(b) stated in his initial complaint that after an officer strip-searched § 87(2)(b) § 87(2)(b) § 87(2)(b) standing nearby, protested that what the officers were doing was “not right.” In response, an unidentified officer said, “Shut up before I lock you up.”

As noted above in *Potential Issues*, after making this initial complaint and providing several further details over the phone, § 87(2)(b) § 87(2)(b) missed an interview appointment and then became unresponsive. § 87(2)(b), § 87(2)(g)

Allegation H—Abuse of Authority: In front of § 87(2)(b) in Queens, Police Officer Michael Carrieri recorded video of § 87(2)(b) § 87(2)(b) on his personal cell phone.

§ 87(2)(b) § 87(2)(b) stated that at approximately 8:00 PM, he was inside of his home, located at § 87(2)(b) § 87(2)(b) Street, § 87(2)(b) Floor, in Queens. § 87(2)(b) § 87(2)(b) looked out of his window and saw a black vehicle parked in front of his house. There were three individuals inside. § 87(2)(b) § 87(2)(b) was unaware that this was a police vehicle occupied by plainclothes officers. § 87(2)(b) § 87(2)(b) thought the vehicle was suspicious because the individuals inside the vehicle did not move. § 87(2)(b) § 87(2)(b) took his phone and walked outside to record the vehicle. He recorded the license plate of the vehicle

and then began to record a man seated in the passenger's seat. In turn, this man used a phone to record § 87(2)(b) § 87(2)(b) and the man recorded each other for several minutes before § 87(2)(b) § 87(2)(b) stopped recording and returned to his apartment. § 87(2)(b) § 87(2)(b) did not speak to any of the vehicle's occupants as he recorded them and the vehicle's occupants did not speak to him.

PO Carrieri stated that after their encounter with § 87(2)(b) § 87(2)(b) he and his fellow officers resumed patrol. Less than one hour later, they arrived at the front of § 87(2)(b) § 87(2)(b) th Street, in Queens. PO Carrieri did not know exactly why PO Jones, the operator, went there, but he assumed that it was because § 87(2)(b) § 87(2)(b) th Street was a known Always Banging Kings location, where many members of the gang congregated and had been arrested previously. PO Carrieri believed that some of § 87(2)(b) § 87(2)(b)s gang associates resided at that address. PO Jones parked the RMP on the same side of the street as § 87(2)(b) § 87(2)(b) th Street, with the RMP facing south on § 87(2)(b) § 87(2)(b) so that the passenger's side was facing the building. PO Carrieri again sat in the front passenger's seat.

There was a group of individuals congregated outside of the building. Among them was § 87(2)(b) § 87(2)(b) § 87(2)(b) § 87(2)(b) was not present. § 87(2)(b) § 87(2)(b) cursed at the officers, saying, "Get the fuck out of here." § 87(2)(b) § 87(2)(b) held up a cell phone, pointing it at the officers inside the RMP as if recording a video of them. The RMP's windows were open. § 87(2)(b) § 87(2)(b) said, "I got you. I got you." In response, PO Carrieri took a cell phone from his pocket and held it up, pointing the camera at § 87(2)(b) § 87(2)(b) to "show him how stupid he looked." PO Carrieri also hoped that by appearing to record a video of § 87(2)(b) § 87(2)(b) he might persuade § 87(2)(b) § 87(2)(b) to stop cursing at the officers. PO Carrieri's phone was not set to video mode and he did not record a video or audio at that time. He did not take any photos. He only made the motion of video recording. PO Carrieri did not remember whether he held up his personal cell phone or a department phone. PO Carrieri's personal cell phone was an iPhone 5; he did not recall the specific model of his department-issued phone but recalled that it was a smartphone and that it was not an iPhone. PO Carrieri pointed the camera of his phone at § 87(2)(b) § 87(2)(b) for what he described as a short period of time, but he did not recall specifically how long he did this.

Sgt. Tran stated that when the officers arrived in front of § 87(2)(b) § 87(2)(b) th Street, a residence which was a known Always Banging Kings location, the officers remained inside of the RMP, which PO Jones parked at the curb in front of the residence. The RMP's passenger's side was facing the location. Sgt. Tran was seated in the rear on the passenger's side. PO Carrieri was seated in the front passenger's side seat. Between four and six individuals were congregated on the stoop and sidewalk in front of that location. They were not committing any crimes. Neither § 87(2)(b) § 87(2)(b) nor the other individuals who had been outside of § 87(2)(b) § 87(2)(b) were among them.

According to Sgt. Tran, he, PO Jones, and PO Carrieri observed the group for between ten and fifteen minutes. At some point, an individual arrived and began pointing a cell phone at the RMP, as if filming the officers. In response, PO Carrieri pointed a cell phone at that individual, as if he was recording. Sgt. Tran did not see if PO Carrieri was recording a video or not. Sgt. Tran believed that PO Carrieri was holding up his personal cell phone, and not a department-issued phone. Sgt. Tran did not discuss with PO Carrieri what he was doing with his cell phone when he pointed it at § 87(2)(b) § 87(2)(b) and he never heard PO Carrieri say what he was doing with his cell phone at that time.

PO Jones stated that when he parked the RMP in front of § 87(2)(b) § 87(2)(b) th Street, the RMP's passenger's side faced the building. PO Carrieri was seated in the front passenger's seat. There

were three or four individuals seated on the stoop in front of the building. They were not doing anything illegal. § 87(2)(b) was not present. An individual paced back and forth on the sidewalk and then began watching PO Carrieri, whose window, on the front passenger's side, was open. The individual asked PO Carrieri why he looking at him, and PO Carrieri said that he was allowed to look. The individual removed a cell phone from his pocket and pointed it at the officers, seated inside of the RMP, as if he was recording them. PO Jones saw the flash light of the individual's phone illuminated, indicating to PO Jones that the individual was recording. In response, PO Carrieri held up a cell phone and pointed it at the individual, as if PO Carrieri was recording him. PO Jones looked at the screen of PO Carrieri's phone; he believed that the phone was in camera mode but he was not certain. PO Jones did not know if PO Carrieri recorded a video and did not know if PO Carrieri was holding his personal cell phone or a department-issued cell phone, as he carried both.

As noted above, the investigation obtained the following video recorded by § 87(2)(b)



201604752_20160622_1549_DM.mp4

Video 2 (57 seconds)

Video 2, above, captured PO Carrieri holding up a cell phone and pointing it at § 87(2)(b) as if recording him. The video does not reveal whether PO Carrieri was miming the motion of recording a video or was actually recording. A still from the video (Board Review 21) demonstrates that PO Carrieri held up what appeared to be an iPhone.

§ 87(2)(b), § 87(2)(g)

[REDACTED]

Allegation I—Force: At § 87(2)(b) in Queens, Sergeant Minh Tran used physical force against § 87(2)(b) § 87(2)(b)

§ 87(2)(b) § 87(2)(b) stated that after he called 911 to report a suspicious vehicle, containing four to five individuals and at least one observed gun, outside of § 87(2)(b)th Street, he entered the deli-grocery located at § 87(2)(b)th Street in order to purchase a beer. He entered the deli, walked to the cooler, and opened the cooler. He did not see the officers enter the deli after him. However, Sgt. Tran then took hold of § 87(2)(b) § 87(2)(b)s right bicep very firmly. Sgt. Tran guided § 87(2)(b) § 87(2)(b) outside of the deli and placed him in handcuffs. He brought § 87(2)(b) § 87(2)(b) to the RMP and placed him inside. Later, § 87(2)(b) § 87(2)(b) developed a bruise on his bicep where Sgt. Tran gripped his right arm. As of the date of § 87(2)(b) § 87(2)(b)s CCRB interview, conducted 27 days after the incident, the bruise was healed.

§ 87(2)(b) provided two photos of his arm (Board Review 22), which he stated were taken on either May 27 or May 28, 2016 – one or two days after the incident. The photos picture a dark purple bruise on the inside of § 87(2)(b)'s left bicep.

Sgt. Tran stated that after § 87(2)(b) called 911 to report the presence of suspicious armed men – the officers, whom § 87(2)(b) could see inside of the RMP and with whom § 87(2)(b) was familiar – they resolved to arrest him for making a false report. When § 87(2)(b) entered the deli-grocery located at § 87(2)(b)th Street, Sgt. Tran and PO Carrieri followed § 87(2)(b) into the deli, while PO Jones waited outside. Inside of the deli, Sgt. Tran and PO Carrieri approached § 87(2)(b). Sgt. Tran took hold of one of § 87(2)(b)'s arms, but Sgt. Tran did not recall which arm it was, while PO Carrieri took hold of the other arm. § 87(2)(b) pulled away from the officers and struggled against them by flailing his arms. Sgt. Tran and PO Carrieri pulled § 87(2)(b)'s arms behind his back, and PO Carrieri placed § 87(2)(b) in handcuffs. § 87(2)(b) continued to pull away from the officers and yelled, but Sgt. Tran did not recall what he yelled. Sgt. Tran and PO Carrieri guided § 87(2)(b) out of the deli and onto the sidewalk. They then guided him to the RMP. § 87(2)(b) continued to yell. As they guided him he walked of his own power but continued to jostle and required guidance. When the officers and § 87(2)(b) reached the RMP, § 87(2)(b) refused to enter. Together, PO Carrieri and Sgt. Tran guided him into the vehicle. The officers did not use any other force against § 87(2)(b).

According to PO Carrieri, after § 87(2)(b) entered the deli-grocery, he and Sgt. Tran followed § 87(2)(b) inside. When they entered, § 87(2)(b) had removed a glass bottle of Heineken beer from a cooler. PO Carrieri was afraid that § 87(2)(b) might attempt to use the bottle as a weapon. PO Carrieri told § 87(2)(b) to put the bottle down and to place his hands behind his back, but § 87(2)(b) did not comply. § 87(2)(b) stood still, holding the bottle. PO Carrieri believed that § 87(2)(b) had previously been charged with resisting arrest and this increased PO Carrieri's fear for his own safety. PO Carrieri took hold of § 87(2)(b)'s right arm and Sgt. Tran took hold of § 87(2)(b)'s left arm. § 87(2)(b) tensed up and attempted to flail his arms, but the officers overpowered him by holding his arms in place. § 87(2)(b) dropped the beer bottle from his hand. § 87(2)(b) then stopped struggling, and the officers pulled his arms behind his back and placed him in handcuffs. The officers guided § 87(2)(b) out of the deli. Once outside, § 87(2)(b) refused to walk. PO Carrieri, holding one of § 87(2)(b)'s arms, guided § 87(2)(b) forward. § 87(2)(b) twisted back and forth, making it difficult to grip his arm. PO Carrieri did not recall which side of § 87(2)(b)'s body he was on at that time. In order to control § 87(2)(b) PO Carrieri placed his forearm underneath § 87(2)(b)'s arm, near § 87(2)(b)'s armpit, and used his other hand to hold onto § 87(2)(b)'s shoulder. Sgt. Tran was not making physical contact with § 87(2)(b) at that time. PO Carrieri guided § 87(2)(b) to the RMP in this manner, approximately twenty yards away. § 87(2)(b) then refused to enter the RMP, and PO Carrieri placed his hand on § 87(2)(b)'s shoulder to guide § 87(2)(b) into the RMP. PO Carrieri did not use any additional force against § 87(2)(b).

An individual who identified himself as § 87(2)(b) who was working at the deli-grocery at the time of the incident, witnessed a portion of the incident. According to § 87(2)(b) after § 87(2)(b) entered the deli-grocery, the officers followed him inside. The officers placed § 87(2)(b) in handcuffs and removed him from the store. The officers did not strike § 87(2)(b) and § 87(2)(b) did not resist arrest.

As noted above in *Potential Issues*, the cameras at the deli-grocery in question do not record, and the investigation did not obtain any video of the arrest.

§ 87(2)(b)'s Pre-Arrest Screening Form (Privileged Documents) notes that § 87(2)(b) was not sick or injured when he arrived at Queens Central Booking.

While § 87(2)(b) stated that Sgt. Tran gripped his right arm, the above-referenced photos show bruising to the left arm, it is possible that § 87(2)(b) simply misremembered which arm was injured. As noted above, according to the Pre-Arrest Screening Form § 87(2)(b) did not sustain any injury during his arrest, but it is possible that no bruise had yet developed when he arrived there at approximately 2:08 AM the following morning, approximately five hours after the arrest (Board Review 23). Similarly, § 87(2)(b)'s alleged bruise was healed at the time of his CCRB interview, conducted on June 22, 2016—almost one month after the incident, and enough time for a bruise to have healed. However, it is not possible to determine when the injury photos in question were taken and therefore whether or not the pictured bruise was sustained as a result of the incident in question.

Additionally, § 87(2)(b) described being guided, consistent with the testimonies of Sgt. Tran and PO Carrieri. However, § 87(2)(b) did not describe any struggle, whereas the officers stated that § 87(2)(b) flailed his arms, twisted his body, and pulled away from them. If § 87(2)(b) resisted as described, Sgt. Tran might have needed to grip his arm tightly enough to cause a bruise. However, if § 87(2)(b) was compliant, a grip right enough to cause such a bruise would appear excessive. § 87(2)(b) the deli employee, stated that § 87(2)(b) did not resist while inside of the deli. However, the officers stated that § 87(2)(b) struggled against them while outside of the deli, and § 87(2)(b) did not provide any testimony in regards. Further, as noted in *Potential Issues*, § 87(2)(b) refuse to cooperate with the investigation and did not provide a verified statement.

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b), § 87(4-b), § 87(2)(g)

§ 87(2)(b), § 87(2)(g), § 87(4-b)

Squad: 1

Investigator: _____
Signature Print Date

Squad Leader: _____
Title/Signature Print Date

Reviewer: _____
Title/Signature Print Date